

### **REMARKS**

Claims 14-31 are pending in this application. Claim 16 is amended and claims 30 and 31 are added.

The Office Action objected to the drawings based on the assertion that the temperature sensor, integrated with the receiving elements, as recited in claim 16 must be shown or the feature canceled from the claims. By this Amendment, claim 16 is amended to obviate the objection. Applicants respectfully request withdrawal of the objection.

### **The Claimed Invention**

An exemplary embodiment of the invention, as recited by independent claim 14, is directed to a coffee machine that includes a continuous flow heater secured in a housing with a pipe for guiding water, which has a flexible tube connecting piece at one end, the flexible tube connecting piece including receiving elements for integrating additional components of the coffee machine.

Conventional coffee machines may include continuous flow heaters. These conventional machines suffer from complex and costly manufacturing and assembly.

The invention addresses and solves these problems by providing a flexible tube connection piece located at an end of a continuous flow heater, where the flexible tube connection piece includes receiving elements for integrating additional components of the coffee machine.

### **Double Patenting**

The Office Action provisionally rejected claims 14-29 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 12-25 of copending Application No. 10/587,225. Applicants respectfully traverse the rejection on the grounds that the examiner has not made a prima facie case. The grounds of rejection 1) do not identify the differences between claims 14-29 of the present application and claims 12-25 of copending Application No. 10/587,225 and/or 2) do not provide a reason why the differences would have

been obvious, i.e., why claims 14-29 of the present application are allegedly an obvious variation of claims 12-25 of copending Application No. 10/587,225.

In fact, for example, the receiving elements recited in claim 14 of the present application of the present application and the securing means recited in claim 12 of copending Application No. 10/587,225 are clearly different structural elements that perform different functions in the coffee machine. There is no reason why one of ordinary skill in the art would conclude that these structures are obvious variations.

### **The Fanzutti Reference**

The Office Action rejected claims 14-16, 18-27 and 29 under 35 U.S.C. 102(e) over U.S. Patent Application Publication No. 2003/0066431 to Fanzutti et al. Applicants respectfully traverse the rejection.

Claim 14 includes the feature of a flexible tube connecting piece at one end of a continuous flow heater, the flexible tube connecting piece including receiving elements for integrating additional components of the coffee machine. In contrast, the Office Action defined flexible tube connecting piece (top end cap 138) of Fanzutti does not have elements for integrating additional components. At most, top end cap 138 has a single receiving element for integrating a single component. The Office Action asserts that thermal cut off 124 of Fanzutti corresponds to one of the claimed “additional components”. However, thermal cut off 124 cannot correspond to one of the “additional components” of claim 14 because thermal cut off 124 is not integrated by a receiving element that is included in a flexible tube connecting piece that is at one end of a continuous flow heater. Thermal cut off 124 is held in place by clip 126, which is clearly not at one end of a continuous flow heater and is clearly not integrated by a receiving element that is included in a flexible tube connection piece.

Claim 18 includes the feature of the flexible tube connecting piece being made from a high-temperature resistant plastic material. Applicants can find no reference in Fanzutti as to what material is used to make end caps 136, 138.

Claim 19 includes the feature of the flexible tube connecting piece including a securing means for securing the continuous flow heater in the housing. In contrast, the Office Action

defined securing means (shield members 120, 122) of Fanzutti are not included in the Office Action defined flexible tube connecting pieces (end caps 136, 138). Also, Applicants could not find any reference in Fanzutti as to how shield members 120, 122 secure anything to a housing.

Claim 20 includes the feature of the securing means including additional receiving elements for integrating additional components of the coffee machine. In contrast, the Office Action defined securing means (shield members 120, 122) of Fanzutti do not have any additional receiving elements for integrating additional components. The Office Action defined additional receiving elements (clips 126, 130) are not included in shield members 120, 122.

Claim 22 includes the feature of a heating rod thermally connected to the pipe of the continuous flow heater by means of at least one flat contact surface. In contrast, the Office Action defined heating rod (heating element 142) is not connected to the Office Action defined pipe (tube 140) by a flat contact surface. Figure 4 clearly shows that heating elements 142 are thermally connected to tube 140 by way of the tubular outer surface of tube 140 contacting the round surfaces of blocks 144 and then the tubular inner surfaces of blocks 144 contacting the tubular outer surfaces of heating elements 142. None of these surfaces are flat.

The argument presented above with regard to claim 22 also applies to claim 23.

Claim 26 includes the feature of the flexible tube connecting piece comprising sealing means which abut against an inner wall of the pipe. In contrast, end caps 136, 138 of Fanzutti do not abut against an inner wall of tube 140. Tube fittings 132, 134, not ends caps 136, 138, are connected to tube 140 (paragraph 0054). In addition, nothing in Fanzutti appears to be abutting an inner wall of tube 140.

Claim 27 includes the feature of the sealing means being formed by an O-ring seal inserted in an annular groove on the outer circumference of the flexible tube connecting piece. In contrast, Fanzutti shows no annular groove on the outer circumference of either end cap 136, 138. Further, it would make no sense to place a seal in an annular groove on an outer circumference of either end cap 136, 138 because such a seal would not be in contact with tube 140.

Claim 29 includes the feature of the flexible tube connecting piece having a substantially conical shape. In contrast, no piece of end caps 136, 138 has a substantially conical shape.

In view of the foregoing, Applicants respectfully submit that Fanzutti does not disclose each and every feature of claims 14-16, 18-27 and 29 and respectfully requests withdrawal of the rejection.

The Office Action rejected claim 28 under 35 U.S.C. 103(a) over Fanzutti. Applicants respectfully traverse the rejection.

Claim 28 includes the feature of at least two axially spaced O-ring seals being provided on the flexible tube connecting pieces. Claim 28 depends from claim 26. As stated above, tube fittings 132, 134, not ends caps 136, 138, are connected to tube 140 (paragraph 0054). As a result, it would make no sense to put O-rings on end caps 136, 138 and it would not have been obvious to do so.

In view of the foregoing, Applicants respectfully submit that Fanzutti does not suggest the features of claim 28 and respectfully requests withdrawal of the rejection.

#### **The Fanzutti Reference in view of the Roberson Reference**

The Office Action rejected claim 17 under 35 U.S.C. 103(a) over Fanzutti in view of U.S. Patent No. 6,766,106 to Roberson. Applicants respectfully traverse the rejection.

As explained above, Fanzutti does not teach or suggest the feature of a flexible tube connecting piece at one end of a continuous flow heater, the flexible tube connecting piece including receiving elements for integrating additional components of the coffee machine. Roberson does not remedy the deficiencies of Fanzutti.

Indeed, the Examiner does not allege that Roberson teaches or suggests the feature of a flexible tube connecting piece at one end of a continuous flow heater, the flexible tube connecting piece including receiving elements for integrating additional components of the coffee machine, as recited in independent claim 14, from which claim 17 depends.

In view of the foregoing, Applicants respectfully submit that the combination of Fanzutti and Roberson does not suggest the features of claim 17 and respectfully requests withdrawal of the rejection.

**New Claims**

New claims 30 and 31 are added. Claims 30 and 31 include the feature of the securing means securing the continuous flow heater in the housing in a position where the continuous flow heater is securely held at least a predetermined distance from other components of the coffee machine. Support for claims 30 and 31 exists at paragraph 031 of the specification. Applicants respectfully submit that none of the applied references teaches or suggests the features of claims 30 and 31.

**CONCLUSION**

In view of the above, Applicants respectfully request entry of the present Amendment and allowance of claims 14-31. If the Examiner has any questions regarding this Amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

/Andre Pallapies/

Andre Pallapies  
Registration No. 62,246  
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BSH Home Appliances Corporation  
100 Bosch Blvd.  
New Bern, NC 28562  
Phone: 252-672-7927  
Fax: 714-845-2807  
andre.pallapies@bshg.com